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MARTIN & FERRARO, LLP

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FACSIMILE TRANSMITTAL

TO:

Name: Mail Stop AMENDMENT

Group Art Unit 3733

Examiner Pedro Philogene

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 10/719,424

Gary K. Michelson

Filed: November 21, 2003

EXPANDABLE INTERBODY SPINAL FUSION

IMPLANT WITH EXPANSION

CONSTRAINING MEMBER AND METHOD

FOR USE THEREOF

Attorney Docket No. 101.0107-01000

Customer No. 22882

Confirmation No.: 3402

FROM:

Name: Amedeo F. Ferraro, Esq.

Phone No.: 310-286-9800

No. of Pages (including this): 7

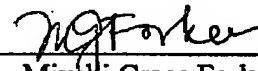
Date: September 25, 2007

Confirmation Copy to Follow: NO

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Transmittal Form (in duplicate); Communication; and Supplemental Information Disclosure Statement Under with Form PTO-1449 are being facsimile transmitted to the U.S. Patent and Trademark Office on September 25, 2007.


Miyabi Grace Forker

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FORM PTO-1083

Attorney Docket No.: 101.0107-01000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson

Serial No: 10/719,424

Filed: November 21, 2003

For: EXPANDABLE INTERBODY SPINAL
FUSION IMPLANT WITH
EXPANSION CONSTRAINING
MEMBER AND METHOD FOR USE
THEREOF

Confirmation No.: 3402

Art Unit: 3733

Examiner: Pedro Philogene

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Supplemental Information Disclosure Statement in the above-identified application.

- ☒ No additional fee is required.
- ☐ Applicant hereby requests a ***-month extension of time to respond to the above office action.
- ☒ A Communication is enclosed.
- ☒ A Supplemental Information Disclosure Statement with Form PTO-1449 is enclosed.
- ☐ The total amount \$***.00 to cover the ***-month extension of time fee is to be charged to Deposit Account No. 50-3726.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726.
- A copy of this sheet is enclosed.**
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
MARTIN & FERRARO, LLP

Date: September 25, 2007

By: Amedeo F. Ferraro
Registration No. 37,1291557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (310) 286-9800
Facsimile: (310) 286-2795

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SEP 25 2007

FORM PTO-1083

Attorney Docket No.: 101.0107-01000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson

Serial No: 10/719,424

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For: EXPANDABLE INTERBODY SPINAL
FUSION IMPLANT WITH
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MARTIN & FERRARO, LLP

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PATENT
Attorney Docket No. 101.0107-01000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Confirmation No.: 3402
Gary K. Michelson)	
Serial No.: 10/719,424)	Group Art Unit: 3733
Filed: November 21, 2003)	Examiner: Pedro Philogene
For: EXPANDABLE INTERBODY SPINAL)	
FUSION IMPLANT WITH EXPANSION)	
CONSTRAINING MEMBER AND)	
METHOD FOR USE THEREOF)	

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

COMMUNICATION

In a telephone conversation on September 25, 2007, Applicant's representative and the Examiner discussed Form PTO-1449 dated January 8, 2007 returned with the Notice of Allowance with all documents initialed by the Examiner. The patent number of one of the U.S. Patents listed on the PTO-1449 included an incorrect digit due to a typographical error. The Examiner stated that Applicant could resubmit an Information Disclosure Statement with a Form PTO-1449 listing this U.S. Patent with the correct patent number. The Examiner further indicated that even though a Notice of Allowance had been mailed, he would consider this U.S. patent, initial the PTO 1449 form, and return it to Applicant's representative. Pursuant to the Examiner's instructions, Applicant is submitting concurrently herewith a Supplemental Information Disclosure Statement and Form PTO-1449.

Respectfully submitted,
MARTIN & FERRARO, LLP

Date: September 25, 2007By: 

David Kogan
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PATENT
Attorney Docket No. 101.0107-01000
Customer No. 22882

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In re Application of:)	Confirmation No.: 3402
Gary K. Michelson)	
Serial No.: 10/719,424)	Group Art Unit: 3733
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CONSTRAINING MEMBER AND)	
METHOD FOR USE THEREOF)	

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Pursuant to the Examiner's instructions, Applicant hereby submits a Supplemental Information Disclosure Statement with Form PTO 1449 listing a U.S. Patent with a corrected patent number. Applicant respectfully requests that the Examiner make the appropriate notations on the attached Form PTO 1449 indicating that the listed U.S. Patent was considered by the Examiner in allowing the above-identified application.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the listed document is material or constitutes "prior art." If the Examiner applies the document as prior art against any claims in the application and applicant determines that the cited document does not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such document.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 25, 2007

By: 

Amedeo F. Ferraro
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